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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Seventeenth session

SUMMARY RECORD OF THE 34th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 20 November 1997, at 3 p.m.

Chairperson: Mr. RATTRAY

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Third periodic report of Iraq (continued) (E/1994/104/Add.9; E/C.12/Q/IRAQ/1; HR/CESCR/NONE/97/3; E/C.12/A/IRAQ/2)

Articles 1 to 5 of the Covenant (continued)

1. At the invitation of the Chairperson, Mr. Dhary and Mr. Salman (Iraq) took places at the Committee table.

2. Mr. DHARY (Iraq) said that there was no discrimination in the distribution of foodstuffs. The ration-card system had made it possible to distribute limited quantities of food to the whole population without any discrimination, as attested by various reports from international organizations such as the United Nations Development Programme (UNDP) and the Food and Agriculture Organization of the United Nations (FAO). The United Nations itself had decided to adopt that system in order to supervise the distribution of food under the oil for food procedure (Security Council resolutions 705 (1991) and 712 (1991)). It could not be said that the Iraqi Government was discriminating against the Kurdish provinces, since United Nations bodies were in charge of distributing food under that procedure. The Iraqi Government could not have imposed an economic embargo on the northern provinces, as they were completely beyond its sovereignty.

3. In answer to Mr. Texier, he said that there was also no social or cultural discrimination against the Kurds, Turkmen, Shia or different religious denominations. That applied in the universities, as attested by the criteria for admission and the composition of the teaching staff. With regard to housing, evictions could take place only in accordance with the law, for example if the dwelling had been acquired illegally or was on land belonging to the State or other persons, although that did not prevent the authorities from showing flexibility. In any event, arbitrary evictions were prohibited by law. It was not true that the Shia were not allowed to reside in Baghdad, since there were hundreds of thousands of them, out of a population of 4 million, living in that city.

4. In reply to Mr. Thapalia, he said that once ratified and published in the Official Gazette, international treaties and covenants were incorporated into domestic law and modified any statute or provision contrary to them. They were also enforceable. Regarding accession to an optional protocol to the International Covenant on Economic, Social and Cultural Rights, his Government would examine that question when the protocol had been elaborated. There were several human rights commissions in Iraq. The commission established under the Parliament was one of the most important and it was independent of the executive. Within the Ministry of Foreign Affairs there was also an advisory commission, made up of independent experts and not civil servants, with responsibility for helping to implement the human rights conventions. In addition, there was the Human Rights Association, an

independent non-governmental organization (NGO) whose members visited prisons and examined human rights violations. The Government took a firm stand on human rights violations, and the perpetrators were brought to justice and punished.

5. Replying to Mr. Antanovich, he said that the Covenant had been published in the Official Gazette and that its fundamental principles were taught in secondary schools and at universities. Human rights were taught in political science and law faculties and students were encouraged to write theses on that subject. He would personally make sure that the public was well informed about the provisions of the Covenant. NGOs were consulted and some of them, including the General Federation of Iraqi Women, took part in preparing reports submitted to the treaty bodies.

6. In reply to a question put by Mr. Sadi, he said that since 1991 Iraq had been able to meet only a very small proportion of its needs for medicines and medical equipment, a fact that accounted for many deaths. Concerning the role of women, their participation was higher in Iraq than in neighbouring countries. Women held senior positions in the administration. There were several women serving as judges or members of Parliament. Many women were also university professors or lawyers.

7. He assured Mrs. Bonoan-Dandan that his delegation attached great importance to dialogue with the Committee and was endeavouring to reply as far as possible to the questions raised.

8. Replying to Mr. Wimer's question about discrimination against women, he said that women were legally and financially independent under Islamic law. Women kept their maiden names when they married. The equality of men and women was ensured with one exception: when inheriting from their parents, women received only half the share of men.

9. Mr. WIMER observed that the delegation had spoken about discrimination against women in its written replies (HR/CESCR/NONE/97/3), but had not said anything about discrimination against national minorities or minority churches. He would also like the delegation to define what it meant by "sect".

10. Mr. DHARY replied that there was no discrimination of any kind, whether legal, administrative or political, based on race, sex, religion or place of birth. All the communities lived normally and there were many mixed marriages. He was surprised to have been asked about the Jewish community. The few Jews who lived in Iraq had their own synagogue, went to school and university and were not oppressed in any way.

11. In response to a question from Mr. Kouznetsov, he said that Iraq had not been in a position to implement the provisions of the Covenant fully, since the embargo on its petroleum exports had deprived it of its principal source of revenue. The Government was, however, endeavouring to mitigate the effects of that embargo. Lastly, he agreed with Mrs. Jimenez Butragueño that it was regrettable that Iraq had no constitutional court and said he would put that question to the competent authorities.

12. Mr. GRISSA expressed surprise that Iraq, with its fertile land irrigated by such a river as the Tigris, could not feed its people. One might have thought that the embargo would have had a salutary influence on Iraqi agriculture, just as the continental blockade had proven beneficial to the French economy in the nineteenth century, when substitute crops, notably sugar beet, had been successfully introduced.

13. Mr. TEXIER said that he was puzzled by the reply of the representative of Iraq on the question of discrimination. Discrimination was said generally not to exist, but that statement was not borne out by United Nations sources. Almost all the reports of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq referred, at least from 1993 to 1996, to discrimination of various kinds, including an internal economic embargo affecting the northern part of the country and discriminatory practices limiting access to health-care services and foodstuffs in the south. He would like the Iraqi delegation to give the Committee some specific answers and say, for example, whether discrimination could be observed in the composition of official bodies and the civil service or in the distribution of aid among the various geographical regions of the country.

14. He would also like to know whether Iraq had carried out the legislative changes it had been requested to make by the Committee on the Elimination of Discrimination against Women with a view to applying the principle of equality of the sexes, as recognized by the Iraqi Constitution and, of course, by the Convention on the Elimination of All Forms of Discrimination against Women. What amendments, if any, had been made?

15. Lastly, concerning discrimination against women in the field of employment, the International Labour Organization (ILO) took the view that article 4, section II, of the Labour Act, although providing for equal remuneration for work of the same nature and amount performed under identical conditions, did not respect the principle of equal pay for equal work. The ILO Committee of Experts had indicated to Iraq that it would be grateful if it could amend that provision. Had that been done? If not, could the delegation explain why and indicate whether Iraq was intending to do so.

16. Mr. DHARY (Iraq), replying to Mr. Grissa's question concerning agriculture in Iraq, said that although agriculture was flourishing, the output was not sufficient to meet the country's requirements. The embargo meant that Iraq could not obtain machinery, technology, pesticides, herbicides and everything else it needed to develop that sector. Moreover, the ban on overflights of Iraqi territory would in any case make it impossible to carry out the necessary crop spraying by air.

17. With regard to Mr. Texier's question concerning the discrimination said to have been reported by Mr. van der Stoel, the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq, he was surprised that Iraq could be accused of discriminating against the Kurds when they were strongly represented in senior administrative posts, as governors or ministers of State, and in the universities. The Vice-President of the National Assembly was a Kurd. A Kurdish-language newspaper was published in Baghdad, although it was not a Kurdish province. Kurdish was taught as a second language in Baghdad in secondary schools. As to the issue of

discrimination in matters of inheritance referred to by Mr. Texier, it was true that, on their father's death, the sons received twice as much of the estate as the daughters. That was to be explained by the Sharia: in Iraqi society men were financially responsible for their wives, even if they were millionaires. Abolishing that rule concerning matters of succession would be tantamount to rejecting Islam. With that one exception, there was no discrimination against women in Iraq. Furthermore, there was no such discrimination, contrary to Mr. Texier's understanding, in respect of wages and salaries, whether in the public or in the private sector.

18. Mr. RIEDEL remarked that the only precise figures given in the Government's replies concerned the number of women in the field of education. He would like to have some figures on other sectors, particularly the "services" sector. What exactly did the term "services" cover and what functions were performed by women in that sphere? Were they largely in subordinate positions?

19. Mr. CEAUSU inquired as to whether aliens residing legally in Iraq received food coupons in the same way as all Iraqi citizens. Could they also exercise their economic, social and cultural rights?

20. Mr. ADEKUOYE asked whether women were free to travel and inquired about the status of aliens, many of whom had reportedly been forced to accept Iraqi citizenship. Could the delegation confirm that latter point? Also, to avoid an unequal distribution of property between children - which, whatever the reason, still constituted discrimination - could a parent, during his lifetime, give the same share to each of his children, without distinction based on sex?

21. Mr. ANTANOVICH said that he would like Iraq to make some tools of economic and social analysis available to the Committee to enable it to understand the situation. The replies to the questions were far too general. Concerning the right to work, what was the unemployment rate in general and the rate of unemployment among young people, particularly those graduating from university?

22. Mr. THAPALIA said that he would like to know why women had to be accompanied by a male member of their family when they went out and why they were not allowed to go abroad, for example, to study at a university.

23. Mr. DHARY (Iraq), replying to Mr. Riedel, who had requested more information on the proportion of women in sectors other than education, said that women accounted for more than 40 per cent of all employees in the civil service and government bodies. That figure could be explained by the fact that men were more attracted towards professional occupations in Iraq or by posts abroad.

24. By "services" was meant all services - social services, health services, and so on - that were accessible to all segments of the Iraqi population, from very young children to older persons. Those services, however, lacked everything - medicines, tools, surgical instruments, ambulances, etc. - and the whole population suffered from the shortage of food and medical supplies.

Legal aliens in Iraq received food coupons just like Iraqi citizens and were treated in the same way. There were, however, fewer of them than in the past and for their entire stay they were subject to Iraqi laws.

25. Replying to Mr. Adekuoye and Mr. Thapalia, he said that Iraqi women could not travel alone and in recent years, because of the circumstances, they had to be accompanied by a male member of their family whom they could not marry. In the past they had also been able to go abroad to study. Concerning the sharing of property between children, without discrimination as to sex, parents were free to act at their own discretion.

26. Regarding Mr. Antanovich's question, unemployment had increased greatly since 1991 because of the embargo imposed on Iraq. Lack of resources had forced the majority of factories to close and the reduction in economic activity had affected the employment situation.

Article 6

27. Mr. TEXIER said that he would like to have some statistical data on unemployment before and after the imposition of the embargo, and to know what steps were being taken by the authorities to reduce unemployment. He would also appreciate having some figures on underemployment.

28. In view of the economic difficulties being experienced by Iraq and the great range of legislation that appeared to regulate population movements, Mr. SADI said that he would like to know what restrictions applied to Iraqis wishing to leave the country to look for work abroad.

29. Noting the large gap between the minimum wage for a non-skilled worker (472 dinars in 1994) and the family welfare allowance (2,229 dinars per month on average), Mr. ADEKUOYE inquired whether the figures supplied in the written replies did not contain an error, since the persons in receipt of such allowances were probably not working.

30. Mrs. JIMENEZ BUTRAGUEÑO said that she was concerned about the second part of the written reply to question 9 concerning legal or traditional obstacles to the employment of women at all levels. She wondered whether, as in the case of Spanish society, which was also traditional, Iraqi society had evolved and whether men were participating more in household tasks and in the education of their children, whether women had a secondary role in the marriage and whether sexual discrimination had disappeared from school textbooks. She would welcome more information on those various matters.

31. Mr. DHARY (Iraq), replying to Mr. Texier, said that before the embargo Iraq had resolved the problem of unemployment and had even needed manpower in various sectors to help in rebuilding the country. The number of foreign workers coming from all parts of the world had been extremely high, and there had been many Europeans among them. After the imposition of the embargo, however, those workers had lost their jobs. That phenomenon had affected many people, since a large number of public as well as private sector enterprises had been forced to close for the reasons already explained. He was not in a position to supply any statistics on unemployment. He was not sure whether such figures were available but he would ask the competent authorities and, if

they could be obtained, he would have them transmitted to the Committee as soon as possible. Otherwise, he would make arrangements for the relevant statistics to be prepared.

32. As to the question of restrictions applicable to Iraqis wishing to leave the country, whether for purposes of tourism or to look for work, there were no legal restrictions other than the requirement that women had to be accompanied by males of their own kin, and the fact that anyone leaving Iraqi territory had to pay a tax for passports and visas. There were some restrictions of an administrative nature, such as those involving compliance with the terms of a duly concluded contract of employment, and a debtor who was being taken to court might be deprived of the right to leave the country until his debt had been settled.

33. Replying to Mr. Adekuoye, he said that the difference between the minimum wage for an unskilled worker and the family welfare allowance was due to the fact that the allowance was intended not for one person but for several members of a family. The figures provided were, however, insignificant: before the imposition of the embargo, the amount of the allowance had provided for the needs of a whole family, but because of the rampant inflation in Iraq it was now scarcely enough to meet the needs of one person for more than 10 days. Undue attention should not be paid to those figures if the Committee wished to form an accurate picture of the situation prevailing in the country.

34. In response to the question from Mrs. Jimenez Butragueño concerning the evolution of Iraqi society, he recalled that only 50 years previously Iraqi women had been obliged to wear the veil; society had evolved considerably, in a very short period of time. As already indicated, Iraqi women now occupied posts of responsibility in various sectors, and men were increasingly participating in domestic tasks and in the education of their children.

Article 7

35. With regard to working hours, Mr. RIEDEL asked whether the exceptions provided for by article 62 of the Labour Act, as mentioned in the written replies, did not jeopardize respect for the legally fixed working hours.

36. Mr. DHARY (Iraq) replied that the law was perfectly clear on that point. It allowed the legal working hours to be exceeded only in exceptional cases. Overtime was remunerated at double the normal rate in the case of night work or work under arduous or hazardous conditions, and the rate was 50 per cent higher for overtime worked during the day.

37. Referring to paragraph 28 of the report, and in particular to article 2.3 of Labour Act No. 71 of 1987, which stated that "work is a sacred duty that is ordained by honour and exacted by the imperative to participate in the building, development and prosperity of society", Mr. ANTANOVICH inquired whether Iraq had undertaken a reform of its labour legislation to take account of the current situation of unemployment in the country and to align that legislation with the standards adopted by the international organizations, in particular ILO.

38. Mr. DHARY (Iraq) pointed out that the concept embodied in article 2.3 of the Act was not a legal one. It was primarily an economic and social concept, based on the philosophical principle that every individual had to be productive and serve society. In answer to Mr. Antanovich, he said that the reform of the law in general, including the labour legislation, was a matter being considered by the competent authorities.

39. Referring to the rural outmigration that had occurred at a more prosperous time owing to the concentration of development efforts in the cities to the detriment of rural areas, and to the numerous difficulties that phenomenon had entailed, Mr. GRISSA asked whether people were now returning to the countryside to aid in food production and to reduce the dependence on imports in that regard.

40. Mr. DHARY (Iraq) said that there was indeed a return to rural areas, a phenomenon which had begun even before the embargo and which had, of course, accelerated after its imposition. He thought, like Mr. Grissa, that agriculture was actually helping to mitigate some of the economic difficulties caused by the embargo. Without that renewed interest in agriculture, more than half of Iraq's population might well have perished.

Article 8

41. Mr. TEXIER, supported by Mr. THAPALIA, said that the creation of trade unions was a complicated process that ultimately involved some supervision by the Ministry of Labour. Such a procedure did not ensure full trade union freedom and its corollary, trade union pluralism. According to the annual report of the International Confederation of Free Trade Unions (ICFTU), independent unions were not authorized in Iraq, the 1987 Act established a single trade union structure, which was used by the ruling party for its own propaganda, civil servants and employees of State-owned enterprises were not allowed to organize and the law did not provide for the right to bargain collectively. The right to strike was furthermore said to be subject to severe restrictions, including penal sanctions. That situation was deplorable, since the right to strike was formally protected by the Covenant.

42. Mr. ADEKUOYE said that question 14 had been answered only in general terms without offering any clarification as to the type of machinery put in place to facilitate negotiations between workers and employers. Were there provisions for arbitration when negotiations reached a stalemate? Was the decision resulting from any such arbitration binding on the two parties? Was there not a risk of skilled workers finding themselves at the mercy of the employers?

43. Mr. DHARY (Iraq), replying to Mr. Texier, reverted to the process of setting up trade unions and pointed out that if the Ministry of Labour rejected an application from the workers, they could bring the matter before the labour court. That was an important legal safeguard. The right to strike was embodied in the law and workers could avail themselves of it if the negotiations were to break down.

44. Regarding Mr. Adekuoye's question about the machinery for settling disputes, the Labour Act allowed trade unions to apply to the labour court,

whose completely independent judgement could be appealed. Arbitration was possible, trade unions and employers being free to appoint their own arbitrator.

45. He nevertheless promised to take account of Mr. Adekuoye's comments and to recommend that machinery for arbitration be created in his country. Considering the importance of arbitration, he would like members of the Committee to provide him with examples of legislative instruments promulgated in that field by other countries, so that his Government could examine and perhaps draw inspiration from them.

46. Mr. CEAUSU asked whether public sector employees could establish their own trade union or join an existing union. Could workers set up a trade union in an enterprise where there already was one? Had any labour disputes led to strikes in recent years?

47. Mr. DHARY (Iraq) replied that public sector employees were subject to different regulations from the Labour Act and enjoyed greater benefits than workers in the private sector, particularly with regard to pensions. They were nevertheless entitled to set up trade unions, and there were unions for architects, engineers, doctors, lawyers and others. Any civil servant was able to join a trade union, although an architect could not, for example, belong to a doctors' union. No law prohibited the creation of a second union in the same sector, but that was unknown in practice. It could be argued that the existence of several unions in the same enterprise would weaken the trade union movement. There had been no strikes in recent years, since the provisions of the Labour Act had been respected during any disputes by both unions and employers.

48. Mr. WIMER said that, according to ILO, some Iraqi employees had been sentenced to terms of imprisonment, or even forced labour, for simple misconduct in the workplace. That was a matter for concern and required clarification. It was understandable that an employee who killed a fellow worker or his boss should be sentenced under the Penal Code, but the application of penal sanctions for simple misconduct was not compatible with the right to work.

49. Mr. ADEKUOYE said he understood that workers' benefits were better in the public sector than in the private sector, in contrast to the situation obtaining in other countries. He would like the delegation to provide a comparative table of those benefits, including pensions, for the public and private sectors.

50. Mr. DHARY (Iraq), replying to Mr. Wimer, said that the Labour Act contained no provision calling for sanctions for ordinary breaches such as working to rule. An employee might nevertheless commit an offence under the criminal law by, for example, sabotaging industrial equipment. Penal sanctions were naturally applied in such cases. However, there were no penal sanctions concerning relations between employers and employees.

51. Replying to Mr. Adekuoye, he confirmed that, under the law on the public service dating from 1936, benefits for persons employed in the public sector

were better than those for persons working in the private sector. However, the combined effects of the embargo and the fall in the dinar had seriously eroded the purchasing power of civil servants.

Article 9

52. Mr. RIEDEL said that, according to the reply to question 21, Islam and the Constitution provided for older persons to be supported by their children and required the State to assure them of a decent living, yet the example given by way of illustration related only to disabled persons. The role of the family in Muslim societies was certainly extremely important and a considerable asset, but what exactly were the State's obligations towards older persons and how were the authorities fulfilling them?

53. Mr. GRISSA said that Iraq's current situation, which could be regarded as temporary and exceptional, was marked by galloping inflation. That was due to the fact that the Government, faced with dwindling fiscal receipts, had been obliged to print more money to meet its expenses. Once that situation came to an end, what did the State intend to do to compensate for the loss of income incurred by Iraqis, and particularly by members of disadvantaged groups whose savings and pensions had been wiped out by inflation?

54. Mrs. JIMENEZ BUTRAGUEÑO, following up on Mr. Riedel's question, requested some clarification about the relationship between the replies to questions 18 and 21. Would retirees have their pensions reduced because they were supported by their children? Were pensions to be revalued to compensate for the loss of purchasing power caused by inflation?

55. The CHAIRPERSON said that the Iraqi delegation would reply to those questions at the next meeting.

The meeting rose at 6.05 p.m.